

Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 1454(a)(2) of this title, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of this section; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on the amortization schedule then in effect for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) Termination at midpoint

A private mortgage insurance requirement in connection with a residential mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) Rule of construction

Nothing in this subsection may be construed to require a residential mortgage or residential mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) GAO report

Not later than 2 years after July 29, 1998, the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

(i) the income levels and races of the mortgagors involved;

(ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;

(iii) the types and locations of the properties involved;

(iv) the mortgage principal amounts; and

(v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

(h) Accrued obligation for premium payments

The cancellation or termination under this section of the private mortgage insurance of a mortgagor shall not affect the rights of any mortgagee, servicer, or mortgage insurer to enforce any obligation of such mortgagor for premium payments accrued prior to the date on which such cancellation or termination occurred.

(Pub. L. 105-216, §3, July 29, 1998, 112 Stat. 899; Pub. L. 106-569, title IV, §§402(a)(2), (c)(1), 403(a), 404, 405(b), (c), Dec. 27, 2000, 114 Stat. 2956-2958.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, §404(1)(A), inserted “or any later date that the mortgagor fulfills all of the requirements under paragraphs (1) through (4)” after “cancellation date” in introductory provisions.

Subsec. (a)(3), (4). Pub. L. 106-569, §404(1)(B)–(D), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(2). Pub. L. 106-569, §405(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.”

Subsec. (c). Pub. L. 106-569, §403(a)(1), inserted “on residential mortgage transactions” after “requirement be imposed”.

Subsec. (d). Pub. L. 106-569, §402(c)(1)(B), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106-569, §402(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1)(B). Pub. L. 106-569, §404(2), substituted “subsection (a)(4)” for “subsection (a)(3)”.

Subsec. (f). Pub. L. 106-569, §402(c)(1)(A), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1)(B)(ii). Pub. L. 106-569, §402(a)(2), substituted “the amortization schedule then in effect” for “amortization schedules”.

Subsec. (g). Pub. L. 106-569, §402(c)(1)(A), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 106-569, §403(a)(2)(A), struck out “mortgage or” after “do not apply to any residential” in introductory provisions.

Subsec. (g)(2). Pub. L. 106-569, §403(a)(2)(B), struck out “mortgage or” after “in connection with a residential”.

Subsec. (g)(3). Pub. L. 106-569, §403(a)(2)(C), substituted “residential mortgage or residential” for “mortgage or”.

Subsec. (h). Pub. L. 106-569, §405(c), added subsec. (h).

§ 4903. Disclosure requirements

(a) Disclosures for new mortgages at time of transaction

(1) Disclosures for non-exempted transactions

In any case in which private mortgage insurance is required in connection with a residential mortgage transaction (other than a residential mortgage transaction described in section 4902(g)(1) of this title), at the time at

which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 4902(a) of this title indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 4902(a) of this title earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 4902(b) of this title, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 4902(g) of this title, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 4902(a) of this title on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 4902(g) of this title, and whether such an exemption applies at that time to that transaction.

(2) Disclosures for exempted transactions

In the case of a residential mortgage transaction described in section 4902(g)(1) of this title, at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) Annual disclosures

If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this chapter to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) Applicability

Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after July 29, 1998.

(b) Disclosures for existing mortgages

If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this chapter, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) Inclusion in other annual notices

The information and disclosures required under subsection (b) and subsection (a)(3) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.], or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) Standardized forms

The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section, which disclosures shall relate to the mortgagor's rights under this chapter.

(Pub. L. 105-216, §4, July 29, 1998, 112 Stat. 902; Pub. L. 106-569, title IV, §§402(c)(2), 403(b), Dec. 27, 2000, 114 Stat. 2957.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b), is 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as an Effective Date note under section 4901 of this title.

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (c), is Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, as amended, which is classified principally to chapter 27 (§2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-569, §§402(c)(2)(A)(i), 403(b)(1)(A), substituted “residential mortgage transaction (other than a residential mortgage transaction described in section 4902(g)(1) of this title)” for “residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 4902(f)(1) of this title)” in introductory provisions.

Subsec. (a)(1)(A)(ii)(IV), (B)(iii). Pub. L. 106-569, § 402(c)(2)(A)(ii), (iii), substituted “section 4902(g) of this title” for “section 4902(f) of this title”.

Subsec. (a)(2). Pub. L. 106-569, §§ 402(c)(2)(B), 403(b)(1)(B), substituted “residential mortgage transaction” for “mortgage or mortgage transaction” and “section 4902(g)(1) of this title” for “section 4902(f)(1) of this title”.

Subsec. (c). Pub. L. 106-569, § 403(b)(2), substituted “subsection (a)(3)” for “paragraphs (1)(B) and (3) of subsection (a)”.

Subsec. (d). Pub. L. 106-569, § 403(b)(3), inserted before period at end “, which disclosures shall relate to the mortgagor’s rights under this chapter”.

§ 4904. Notification upon cancellation or termination

(a) In general

Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this chapter, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) Notice of grounds

(1) In general

If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 4902 of this title, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) Timing

Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 4902(a) of this title, not later than 30 days after the later of—

(i) the date on which a request is received under section 4902(a)(1) of this title; or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 4902(a)(3)¹ of this title; and

(B) with respect to termination of private mortgage insurance under section 4902(b) of this title, not later than 30 days after the scheduled termination date.

(Pub. L. 105-216, § 5, July 29, 1998, 112 Stat. 903.)

REFERENCES IN TEXT

Section 4902(a)(3) of this title, referred to in subsec. (b)(2)(A)(ii), was redesignated section 4902(a)(4) of this title by Pub. L. 106-569, title IV, § 404(1)(C), Dec. 27, 2000, 114 Stat. 2958.

¹ See References in Text note below.

§ 4905. Disclosure requirements for lender paid mortgage insurance

(a) Definitions

For purposes of this section—

(1) the term “borrower paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term “lender paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term “loan commitment” means a prospective mortgagee’s written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) Exclusion

Sections 4902 through 4904 of this title do not apply in the case of lender paid mortgage insurance.

(c) Notices to mortgagor

In the case of lender paid mortgage insurance that is required in connection with a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 4902(a) of this title, and could automatically terminate on the termination date in accordance with section 4902(b) of this title;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced (under the meaning given such term in the regulations issued by the Board of Governors of the Federal Reserve System to carry out the Truth in Lending Act (15 U.S.C. 1601 et seq.)), paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and